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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,642	02/20/2004	Geoffrey N. Holland	7135USO2	7341
41155 7590 08/20/2007 BRIAN R. WOODWORTH 275 N. FIELD DRIVE DEPT. NLEG BLDG H-1 LAKE FOREST, IL 60045-2579			EXAMINER KHUU, HIEN DIEU THI	
			ART UNIT 2863	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/783,642	Applicant(s) HOLLAND ET AL.	
	Examiner Cindy D. Khuu	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-44 is/are pending in the application.
- 4a) Of the above claim(s) 31-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-30 and 41-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claims 31-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly submitted claim "a method for automatically configuring an audio or visual output characteristic of a medical pump" and "supplying at least one output characteristic determining criteria", whereas the originally claimed "a method for adjusting the medical device output conveyed to a caregiver" and "supplying user defined display criteria to the medical device".

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 31-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 19, 20, 28 and 30 are rejected under 35 U.S.C. 102(a) as being anticipated by Eggers et al. (US 2002/0169636).

With respect to claims 19 and 30, Eggers discloses a method for adjusting the medical device (12) output conveyed to a caregiver (hospital; fig. 1), comprising:

supplying user defined (54) display criteria to the medical device (fig. 1; paragraph 0024, lines 1-4), where the display criteria is selected from a group consisting of location of the medical device in the hospital (patient care device location in the hospital; paragraph 0030), type of medication being supplied (treatment prescription; paragraph 0030), time of day (it is unclear what 'time of day' is implied to, however Eggers discloses time of day a treatment start; paragraphs 0047 and 0069), caregiver information (physician identification; paragraph 0030), and patient information (age, physical/medical characteristics; paragraph 0030); and

configuring the output of the medical device (12) conveyed to a caregiver (output of device 12 being conveyed via 34 to hospital; fig. 1) based on the display criteria (paragraphs 0024, 0030); wherein the medical device is a pump (paragraph 0023, line 4; paragraph 0026) and the display criteria is independent of medication order status and history (pharmacy system 34 is independent of medical device 12 and hospital 30; paragraph 0036).

With respect to claim 20, Eggers further discloses a method wherein the medical device output includes a visual display on a display screen (54; paragraph 0024).

With respect to claim 28, Eggers further discloses wherein the patient information includes a patient diagnosis and disease state (paragraph 0030).

With respect to claim 30, Eggers further discloses a medication management system for adjusting the medical device output conveyed to a caregiver (fig. 1), comprising:

a medication management unit (34) having a processing unit (cpu) and a storage medium (disk) coupled to the processing unit (fig. 1), the storage medium containing programming code executed by the processing unit (paragraph 0068;); and

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a medical device (12) in electronic communication with the medication management unit (via communication link 34), having a processor (50) and a memory (56) coupled to the processor (fig. 1), the memory containing programming code executed by the processor to configure the output of the medical device conveyed to a caregiver based on the instruction from the medication management unit (fig. 2; paragraphs 0029; 0035-0036 and 0056).

Claims 27 and 41-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Browne et al. (US 2004/0064342).

With respect to claims 27 and 41-42, Browne discloses a method (abstract, lines 1-3) for adjusting the medical device output (paragraph 0066, line 1) conveyed to a caregiver (operator, paragraph 0067, lines 1-3), comprising:

supplying display criteria, to the medical device (paragraph 0067, lines 1-5; see screen 80, Fig. 4);
and

configuring the output of the medical device conveyed to a caregiver based on the display criteria (paragraph 0068, lines 3-7);

wherein the display criteria is caregiver information selected from a *group consisting of* caregiver training level, caregiver security level access, caregiver experience, caregiver error rate, and caregiver response time (paragraph 0078, lines 6-13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al. (US 2002/0169636) in view of Grunwald et al. (US 2003/0013959).

With respect to claims 21-23, Eggers teaches of a touch screen display (54; paragraph 0024). Eggers does not explicitly disclose the screen display can be selected for multiple colors, multiple brightness levels, and multiple languages. However, it is well known that screen display provide options to select different colors, brightness level and change system language as disclosed by Grunwald (Paragraph 0077). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to implement the selectable options with the screen display of Eggers to have different colors, brightness level and system language that is a preference for different users (paragraph 0077).

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al. (US 2002/0169636) in view of Say et al. (US 2003/0187338).

With respect to claims 24-26, Eggers teaches of an output alarm monitoring (paragraph 0058). Eggers does not explicitly teach the output alarm monitoring to include a sound device with selectable warning tone and selectable volume. However, it is well known that an alarm monitoring system would include a sound/audio device with selectable warning tone and selectable volume as disclosed by Say (paragraph 291, lines 4-12). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to implement a sound device with the alarming monitoring of Eggers to have selectable tone and volume for the purpose of indicating one or more conditions (Paragraph 291, lines 4-12).

Claims 23, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al. (US 2002/0169636) in view of Shapiro et al. (US 2005/0075544).

With respect to claims 23 and 29, Eggers teaches of a touch screen display (54; paragraph 0024). Eggers does not teach the details of all possible information being displayed and whether the display can select different languages. However, it is well known by Shapiro to teach of a patient assessment screen (970) to obtain patient's hearing ability information (Paragraph 163, lines 22-28) and to determine the value

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displayed as the preferred language on the Patient Assessment screen (Paragraph 256, lines 22-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to implement a language field and to display patient's hearing ability information as disclosed by Shapiro into the displays of Eggers for the purpose of specifying the predominant local language or to display the preferred language on the screen (Paragraph 256, lines 22-25) and to provide the patient's ability to learn from hearing reasons (Paragraph 163, lines 22-28).

Claims 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Browne et al. (US 2004/0064342).

With respect to claims 43-44, Browne does not disclose the display criteria information is caregiver error rate and/or response time. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to display the caregiver error rate and response time since it is common knowledge that a person's error rate and response time directly reflect the person's training level and experience. Note that Browne et al. disclose displaying the caregiver training level and experience (paragraph 0078, lines 6-13). It would be beneficial to display the caregiver error rate and response time for the purpose of evaluating the caregiver work performance.

Response to Arguments

Applicant's amendments and arguments with respect to claims 19-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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CMK 8/14/07

/Michael P. Nghiem/

Primary Examiner, GAU 2863

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A handwritten signature in black ink, appearing to read 'Michael Nghiem', with a long horizontal flourish extending to the right.

MICHAEL NGHIEM
PRIMARY EXAMINER

/Michael P. Nghiem/

Primary Examiner, GAU 2863